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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,889	03/27/2000	Pankaj K. Jha	0325.00345	3979

21363 7590 12/30/2003

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EXAMINER

GEORGE, KEITH M

ART UNIT	PAPER NUMBER
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2663

9

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/535,889

Applicant(s)

JHA, PANKAJ K.

Examiner

Keith M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-10,12-17 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-10,12-17 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: _____

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DETAILED ACTION

Drawings

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There does not appear to be any teaching in the specification that a Simple Data Link packet is configured to store configuration information to identify one of a plurality of protocols used in a packet.

4. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

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the inventor(s), at the time the application was filed, had possession of the claimed invention.

There does not appear to be any teaching in the specification that the second of the packets is void of a label.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 8-10, 12-17, 22, 25 and 27 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chan et al., U.S. Patent 6,301,254, hereinafter Chan.

7. Referring to claims 1, 3, 16 and 17, Chan teaches a method for providing robust Asynchronous Transfer Mode (ATM) traffic over a Synchronous Optical Network (SONET). Such a method would inherently include an interface connectable to the SONET network. Without such an interface it would not be possible to transmit the ATM traffic onto the SONET network. This method includes an STS-N formed by byte interleaving the multiple STS-1 signals that comprise the STS-N signal. A concatenated STS (STS-Nc) (frame) is a number of STS1s that are maintained together. Certain services such as ATM payloads (packets) may find such STS-Nc structures appealing because the multiples of the STS-1 rate are mapped into and STS-Nc synchronous payload envelope (SPE). The STS-Nc is multiplexed, switched, and transported as a single unit (frame comprising a packet envelope carrying a plurality of packets)

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(column 2, lines 4-13). A distinctive feature that characterizes an ATM network is that it is a connection oriented network, that is, cells are transferred using preconfigured paths identified by a label carried on the cell header (use labels configured to control routing of the packet through the network) (column 3, lines 44-48).

8. Referring to claims 8, 9, 22 and 27, Chan teaches the method described in reference to claim 1 above where it is inherent that the ATM layer corresponds to the data link layer and the network layer of the OSI model.

9. Referring to claims 10 and 25, Chan teaches the apparatus described in reference to claim 1 above and also teaches that an ATM cell includes a payload type field (data identification portion) (column 3, line 22).

10. Referring to claim 12, Chan teaches the apparatus described in reference to claim 1 above and also teaches that an ATM cell includes header error control field (error portion configured to determine a data error) (column 3, line 23).

11. Referring to claims 13-15, Chan teaches the apparatus described in reference to claim 1 above and also teaches a plurality of nodes configured to read the labels of the frames and to transport the frames in response to the labels as clearly described in reference to figure 1.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. Claims 5 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of O'Connor, U.S. Patent 6,356,544, hereinafter O'Connor.

14. Referring to claims 5 and 23, Chan teaches the apparatus described in reference to claim 1 above with the possible exception of using MPLS labels. O'Connor teaches an advanced SONET add/drop multiplexer capable of supporting packet over SONET and multiprotocol label switching. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to implement MPLS over SONET as taught by O'Connor in the SONET network of Chan. One of ordinary skill in the art would have been motivated to do this because MPLS offers Internet service providers the ability to offer different grades of service (O'Connor, column 1, lines 66-67).

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of Goodman et al., U.S. Patent 6,636,529, hereinafter Goodman.

16. Referring to claim 7, Chan teaches the apparatus described in reference to claim 1 above with the possible exception of using a Simple Data Link packet to identify a protocol used in a packet. Goodman teaches that the SDL publication is a proposal for encapsulating frames such as PPP using SDL onto SONET/SDH (column 2, lines 31-33). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use the SDL publication as taught by Goodman on the SONET network of Chan. One of ordinary skill in the art would have been motivated to do this because such encapsulation schemes are frame aware and so can carry out performance monitoring (Goodman, column 2, lines 33-35).

17. Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of Narayana et al., U.S. Patent 6,469,983, hereinafter Narayana.

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18. Referring to claims 24 and 26, Chan teaches the apparatus described in reference to claim 17 above with the possible exception of allowing different protocols with the different packets in the method. Narayana teaches that a network system has been described in which label switching (MPLS) may be used in conjunction with a link protocol (SONET) in a novel manner to allow disparate network equipment (PPP, Frame Relay, Ethernet, ATM, TCP/IP, token ring, etc.) the ability to communicate via a shared network resource (column 5, line 64- column 6, line 3). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize the teaching of Narayana, which is implemented in a SONET network, on the SONET network of Chan. One of ordinary skill in the art would be motivated to do this because the ability to share network resources reduces the overall cost of a network.

Response to Arguments

19. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

20. Regarding applicant's arguments regarding the drawings on page 11 of the amendment filed 16 October 2003 which claim that no admission has been made regarding FIGS. 1-2 as prior art, applicant is required to distinctly describe what portion of applicant's invention is shown in these figures. If applicant cannot show which portion of the invention is shown in the figures, they should be designated by a legend such as --Prior Art--.

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Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

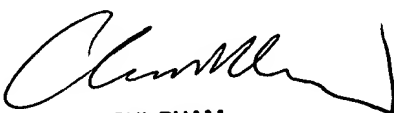
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith M. George whose telephone number is 703-305-6531. The examiner can normally be reached on M-Th 7:00-4:30, alternate F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.



Keith M. George
18 December 2003



CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 12/19/03